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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91224028
Party	Plaintiff Synergent
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Date	05/04/2016
Attachments	Opposers Opposition to Applicants Motion to Suspend.pdf(15390 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Synergent,)	
)	
)	
Opposer,)	
)	
v.)	Opposition No. 91224028
)	
Credit Union 24, Incorporated)	
)	
)	
Applicant.)	
)	

OPPOSER’S OPPOSITION TO APPLICANT’S MOTION TO SUSPEND

While the stated purpose of TBMP 510(02)(a), giving the Board discretion to decide a potentially dispositive motion before acting upon a suspension request, is to prevent a party from escaping the motion, the Board nonetheless has discretion and may exercise it under additional circumstances. See 37 C.F.R. § 2.117(providing discretion to decide dispositive motion with no express limitation to any particular circumstance). The Court should exercise its discretion here and consider the Petitioner’s Motion for Judgment on the Pleadings filed in this matter on February 26, 2016. The issue here is one of pure registerability of the applied for marks, and the only question is whether Applicant’s admitted Withdrawal of an Application for marks identical to the ones applied for here with prejudice and with Petitioner’s Consent and Reliance in 2005 creates an estoppel which prevents Applicant from registering these marks. This limited issue is one that is within the particular expertise of the Board and likely be binding on the District Court under recent Supreme Court jurisprudence on *res judicata* in trademark litigation. *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 135 S. Ct. 1293, 191 L. Ed. 2d

222 (2015). The parties' common law rights will then be the remaining issue to be determined in the District Court action, an issue over which the Trademark Office has no jurisdiction.

Dated: May 4, 2016

Respectfully submitted,

/s/ Charles P. Bacall
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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2016, I electronically filed the foregoing document using the Electronic System for Trademark Trials and Appeals system and that a copy of the foregoing has been served on Jeremy D. Bisdorf, by mailing said copy on May 4, 2016 via First Class Mail, postage prepaid to:

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